

110TH CONGRESS  
2D SESSION

# S. 3494

To restore the value of every American in environmental decisions, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2008

Mrs. BOXER introduced the following bill; which was read twice and referred  
to the Committee on Environment and Public Works

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## A BILL

To restore the value of every American in environmental  
decisions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Restoring the Value  
5       of Every American in Environmental Decisions Act”.

6       **SEC. 2. VALUATION OF STATISTICAL LIFE IN ENVIRON-**  
7                       **MENTAL PROTECTION AGENCY DECISION-**  
8                       **MAKING.**

9       (a) FINDINGS.—Congress finds that—

1           (1) using a dollar value to establish the worth  
 2           of a human life as the basis of making decisions  
 3           about whether to take actions to protect humans  
 4           from dying from environmental pollution has been  
 5           controversial, because that practice—

6                   (A) offends many deeply held religious,  
 7                   moral, and ethical beliefs of people in the  
 8                   United States;

9                   (B) fails to sufficiently consider the long-  
 10                  standing use of credible and accepted alter-  
 11                  native decisionmaking tools, such as—

12                   (i) health-based protections that use  
 13                   the latest science to understand and ad-  
 14                   dress serious health threats, including safe-  
 15                   guards that seek to protect vulnerable indi-  
 16                   viduals (such as pregnant women, infants,  
 17                   children, and the elderly);

18                   (ii) technology-forcing standards that  
 19                   promote increased research and develop-  
 20                   ment in effective, cutting-edge technologies  
 21                   that can save lives by cutting costs while—

22                   (I) reducing the use of dangerous  
 23                   materials;

1 (II) preventing or reducing the  
2 release of those materials into the en-  
3 vironment; or

4 (III) creating new and safer sys-  
5 tems or materials;

6 (iii) right-to-know safeguards that—

7 (I) inform families, communities,  
8 workers, and others about known or  
9 potential threats;

10 (II) enable those individuals and  
11 communities to make decisions about  
12 safety based on the information; and

13 (III) encourage emitters and  
14 users of toxic chemicals to reduce the  
15 emission and use of those chemicals;  
16 and

17 (C) fails to promote the development and  
18 improvement of other desirable methods of deci-  
19 sionmaking;

20 (2) decisionmaking by the Environmental Pro-  
21 tection Agency usually involves policy decisions and  
22 legal standards, such as health-based protections,  
23 technology-forcing standards, or right-to-know safe-  
24 guards, rather than monetized values of life and ill-  
25 nesses;

1           (3) Federal agencies should continue to con-  
2       sider the nonquantifiable benefits of agency actions,  
3       regardless of whether the number of deaths or ill-  
4       nesses resulting from those actions can be quantified  
5       or expressed in monetary terms;

6           (4)(A) there is a great difference between a vol-  
7       untarily accepted risk and an involuntarily imposed  
8       risk; and

9           (B) that difference renders the use of a value  
10      of statistical life based on measures of voluntarily  
11      accepted risks questionable as applied to involun-  
12      tarily imposed risks; and

13          (5) as of the date of enactment of this Act, ap-  
14      plicable value of statistical life methodologies do not  
15      represent the full value of a human life, including  
16      (among other issues) the concepts that—

17           (A) an individual may value another life  
18           more than one's own, for example the lives of  
19           family members or children;

20           (B) infants, children, and many other indi-  
21           viduals do not have the ability to decide the ap-  
22           propriate value of avoiding death;

23           (C) many studies of statistical life meth-  
24           odologies are based on a small subset of the  
25           population that may be willing to accept a high-

1           er risk of death or illness for less compensation  
2           than other members of society; and

3                   (D) differing economic situations or negoti-  
4           ating positions may falsely skew statistical life  
5           methodology estimates downward.

6       (b) VALUE OF STATISTICAL LIFE.—

7           (1) REQUIREMENT.—To the extent that the Ad-  
8       ministrator of the Environmental Protection Agency  
9       (referred to in this Act as the “Administrator”) uses  
10      in decisionmaking any value of statistical life, the  
11      Administrator—

12                   (A) shall not reduce that value below the  
13           highest value of statistical life used in a deci-  
14           sionmaking of the Administrator before the  
15           date of enactment of this Act; and

16                   (B) shall increase that value not less fre-  
17           quently than once each calendar year, by ad-  
18           justing the value to reflect—

19                           (i) the average annual total compensa-  
20                   tion of individuals, including income and  
21                   benefits;

22                           (ii) the average capital that may be  
23                   liquidated upon the death of an individual;  
24                   and

1 (iii) the value of nonpaid activities, in-  
2 cluding the relevant activities described in  
3 the American Time Survey Results pub-  
4 lished by the Bureau of Labor Statistics of  
5 the Department of Labor.

6 (2) PROHIBITION.—The Administrator shall not  
7 decrease the value of statistical life used in a deci-  
8 sionmaking by the Administrator based on age, in-  
9 come, race, illness, disability, date of death, or any  
10 other personal attribute or relativistic analysis of the  
11 value of life.

12 (3) TRANSPARENCY REQUIREMENT.—The Ad-  
13 ministrator shall—

14 (A) ensure that the process of the Admin-  
15 istrator for establishing a value of statistical life  
16 under this subsection is conducted in a manner  
17 that is open to the public, including by—

18 (i) providing public notice and an op-  
19 portunity to comment for a period of at  
20 least 60 days on any proposed revision of  
21 a value of a statistical life;

22 (ii) explaining the process to the pub-  
23 lic using common, understandable terms;  
24 and

1 (iii) for each significant study upon  
 2 which the Administrator relies, providing—

3 (I) a short description of the  
 4 methodological strengths and weak-  
 5 nesses of the study; and

6 (II) a description of the injury,  
 7 illness, death, or other event used as  
 8 a basis for the study; and

9 (B) provide to the Committee on Environ-  
 10 ment and Public Works of the Senate and the  
 11 Committee on Energy and Commerce of the  
 12 House of Representatives, concurrently with the  
 13 public notice described in subparagraph (A)(i),  
 14 any proposed revision of a value of a statistical  
 15 life.

16 (c) EFFECT OF SECTION.—Nothing in this section—

17 (1) expresses on behalf of Congress any en-  
 18 dorsement of any—

19 (A) use of value of statistical life analysis  
 20 as a decisionmaking criterion;

21 (B) cost-benefit analysis;

22 (C) regulatory decisionmaking threshold;

23 or

24 (D) single process of agency decision-  
 25 making;

1           (2) creates a duty to make or revise any stand-  
2           ard under any other applicable law; or

3           (3) affects any substantive standard for pro-  
4           mulgating regulations under any other applicable  
5           law.

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